IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Bail Appl..No. 4709 of 2007()

CRIME NO.275/07 OF KORATTY POLICE STATION

PETITIONERS: APPLICANTS/ACCUSED

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1. M.V.PAULOSE,S/O.VAREETH,
MENACHERY HOUSE,KORATTY EAST,CHIRANGARA,
THRISSUR.

2. THOMAS, S/O. VAREETH,
MENACHERY HOUSE,PERUMBI DESOM,
KORATTY KIZHAKKUM MURI.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT/STATE

STATE OF KERALA , REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No.4709 OF 2007

Dated this the 8th day of August, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 and 2. Altogether, there are only two accused persons. The father-in-law of the de facto complainant, allegedly a person with physical disability, was attacked by the accused persons in furtherance of their common intention in pursuance of a property dispute. Dangerous weapons, like the handle of a spade and a chopper, were used for the commission of the offence. The victim has suffered multiple fractures of the bone of the leg. The petitioners apprehend imminent arrest. Investigation is in progress.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. It is prayed that anticipatory bail may be granted to the petitioners.

3. The learned Public Prosecutor opposes the application.

The learned Public Prosecutor submits that all the available indications point convincingly to the guilt of the petitioners. They are named in the F.I.R. There are no circumstances justifying the invocation of the extraordinary discretion under Sec.438 of the Cr.P.C.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. Some doubt was expressed when the matter was heard, whether the victim has suffered any grievous hurt. The wound certificate has been read over to me. The allegations clearly show that a grievous hurt has resulted. I am unable to find any features in this case which would justify the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This, I am satisfied, is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigating Officer or the learned Magistrate. They must then seek bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioners surrender before the Investigating Officer or the learned Magistrate and seek bail,

after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge